

AFFIDAVIT

I, James H. Payne, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), do hereby state under oath that I make this affidavit in support of an application for a search warrant authorizing the search of Facebook, Inc. (Facebook) account: “Davon Williams,” <https://www.facebook.com/davon.williams.12327608>.

1. I am a Special Agent with ATF and have held this title and position since August 2019. Overall, I have over eight years of law enforcement experience. In my current capacity, I routinely investigate violations of federal criminal statutes, to include violations of federal firearms, narcotics, and explosive laws, and have specifically investigated violations related to the possession, use, and trafficking of firearms and narcotics. I have communicated extensively with other state and federal law enforcement personnel who also specialize in drug and firearms investigations. I have extensive experience with interviewing defendants, participating witnesses, informants, and other persons with personal experience and knowledge of drug and illegal firearms trafficking.

2. This Affidavit contains information necessary to support probable cause for the application. It is not intended to include every fact or matter observed by me or known by law enforcement. The information provided is based on my personal knowledge and observations, information conveyed to me by other law enforcement officials, information discovered through confidential sources, and my review of reports prepared by law enforcement officials.

PLACE TO BE SEARCHED AND EVIDENCE TO BE SEIZED

3. This affidavit is in support of a search warrant to require Facebook, Inc. (Facebook) to disclose to the government records and other information associated with the Facebook account “Davon Williams,” <https://www.facebook.com/davon.williams.12327608> (“**Target Account**”) that are stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered at 151 University Avenue, Palo Alto, California, 94301. The information to be disclosed by Facebook and searched by the government is described in the following paragraphs and in Attachments A and B.

4. The property to be seized from the **Target Account** is described in Attachment B.

OFFENSES UNDER INVESTIGATION

5. Based upon my training and experience, and on the facts set forth in this Affidavit, there is probable cause to believe Davon Williams has and is continuing to commit violations of Title 21, United States Code, Sections 841(a)(1) and 846, conspiracy and attempt to possess with intent to distribute and distribution of controlled substances; Title 21, United States Code, Section 843(b), unlawful use of a communication facility; Title 18, United States Code, Section 924(c), possession of a firearm in furtherance of a drug trafficking crime; Title 18, United States Code, Section 922(g), felon in possession of a firearm; and Title 18, United States Code, Section 2, aiding and abetting the commission of the aforementioned offenses (hereinafter “**Target Offenses**”).

PROBABLE CAUSE

6. Investigators with the Kansas City, Missouri Police Department (KCMOPD) received information from the Mid-Missouri Drug Task Force that an individual identified as Devon Williams was engaged in drug trafficking activities in Kansas City, Missouri. Investigators were told Williams lived at 3331 Indiana Avenue, Kansas City, Missouri and was

involved in drug distribution. Investigators were provided a photograph of Williams from the drug task force. Officers observed additional photographs of Williams on his publicly available Facebook page (**Target Account**).

7. On February 22, 2022, investigators were conducting surveillance at 3331 Indiana Avenue and observed Williams exit the residence and occupied a black Kia K5 vehicle with dark tint. A short time later, uniformed officers in the area attempted to conduct a traffic stop of the vehicle operated by Williams but he did not yield to their emergency lights and sirens and fled. Officers did not actively pursue Williams.

8. On February 23, 2022, KCMOPD investigators conducted surveillance at 3331 Indiana Avenue based on the information related to drug trafficking and the eluding that occurred the previous day. At approximately 5:30 p.m., investigators observed Williams enter the driver's seat of the black Kia K5. Investigators also observed a passenger enter the vehicle. A short time later, uniformed officers attempted a car check on the vehicle in front of 3331 Indiana Avenue. At that time, Williams fled the area at a high rate of speed.

9. A short time later, officers were dispatched on a serious injury vehicle collision at the intersection of East 31st Street and Indiana Avenue. Williams, in the Kia K5, caused the collision when he drove through the intersection at a high rate of speed while failing to stop for a red traffic control signal.

10. Williams was arrested and transported to a KCMOPD facility for booking. When Williams was searched before being transported, officers located \$1,900 in United States currency. In his coat pocket, officers also located approximately 22.1 grams of a white rock like substance; approximately 7.56 grams of a white powdery substance; and 177 blue pills marked "M30".

11. The black Kia K5 that was operated by Williams was towed to a secure tow lot in anticipation of a state search warrant.

12. The white substances were tested with the TruNarc device that indicated the presence of cocaine. Based on training and experience, investigators are aware that counterfeit oxycodone pills containing fentanyl are being distributed in the Kansas City area. These pills are typically blue in color and stamped with “M” and “30.” These counterfeit pills have been associated with numerous fatal and non-fatal fentanyl overdoses in the Kansas City area.

13. The following day, February 24, 2022, investigators executed a search warrant for the black Kia K5 that was issued by the Jackson County, Missouri Circuit Court. On the driver’s side floorboard, near where Williams was seated, investigators located a firearm with an extended magazine, specifically a: Glock Model 23, .40 caliber semiautomatic handgun, bearing serial number AUS740, with rear green sights. In the driver’s seat, investigators located a blue Apple iPhone in a navy blue and gray “Otterbox” case and a black Android phone bearing International Mobile Equipment Identity (IMEI) 353373300518838, in an orange case. In the center console, investigators located approximately \$2,030 in United States Currency.

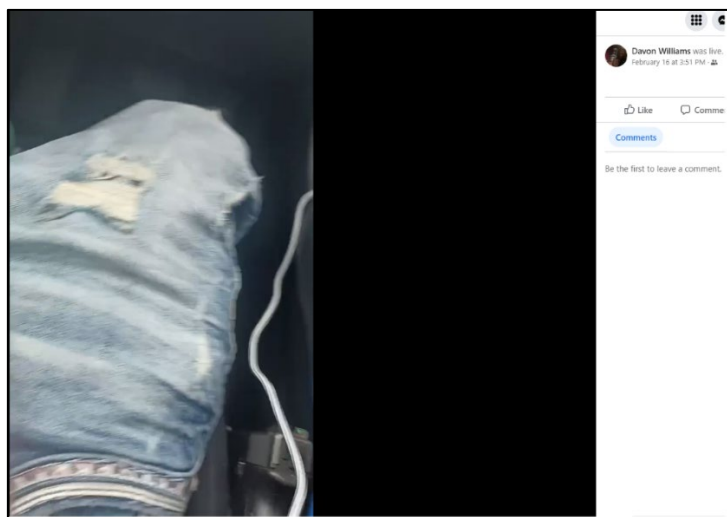
14. In the floorboard behind the passenger’s seat, investigators located a black backpack containing a nylon carrying case. Inside the nylon carrying case, investigators located approximately 506 grams of suspected methamphetamine; approximately 17.29 grams of a black tar substance; approximately 28.03 grams of psychedelic mushrooms, approximately 1 gram of suspected cocaine; 73 blue pills stamped “M30”; 28 pills that are suspected to be MDMA (3,4-Methylenedioxymethamphetamine); approximately 275.58 grams of marijuana; three digital scales; sandwich bags with residue; and a Glock handgun magazine containing 13 rounds of .40 caliber ammunition. The suspected methamphetamine was tested with the TruNarc device that

indicated the presence of methamphetamine. The suspected cocaine was tested with the TruNarc device that indicated the presence of cocaine.

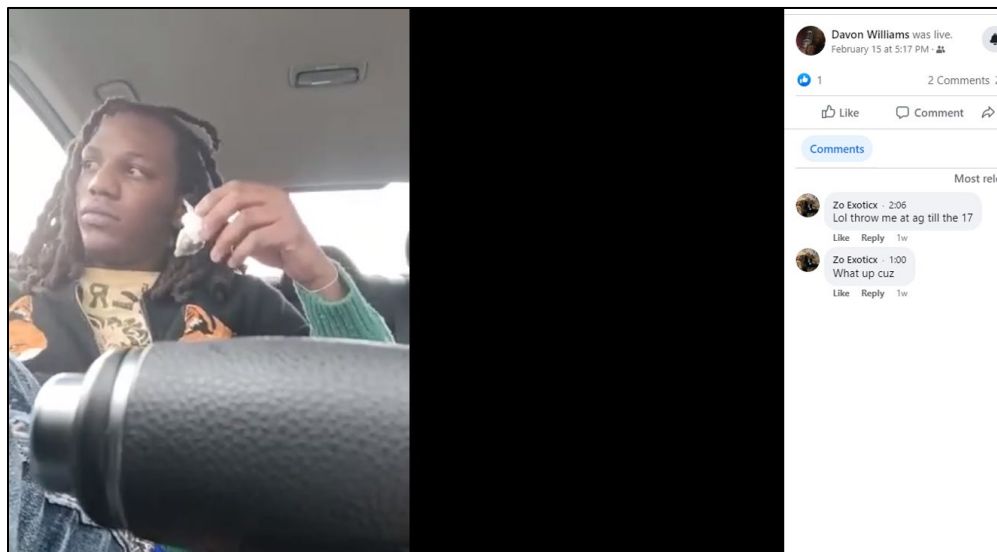
15. A review of Williams' criminal history revealed a prior conviction for Possession with the Intent to Distribute a Controlled Substance in Pettis County, Missouri Circuit Court case number 12PT-CR01384-01. The defendant was also convicted of two counts of Possession with Intent to Distribute a Controlled Substance in Pettis County, Missouri Circuit Court case number 14PT-CR00179-01.

16. On the days leading up to the attempted stop of Williams, KCMOPD officers were monitoring the Facebook Account with the vanity name "Davon Williams," the **Target Account**. There were several posts to the publicly available account depicting Williams in possession of apparent controlled substance and at least one firearm. The posts were in the form of videos and appeared to be Williams filming himself while he was driving his vehicle.

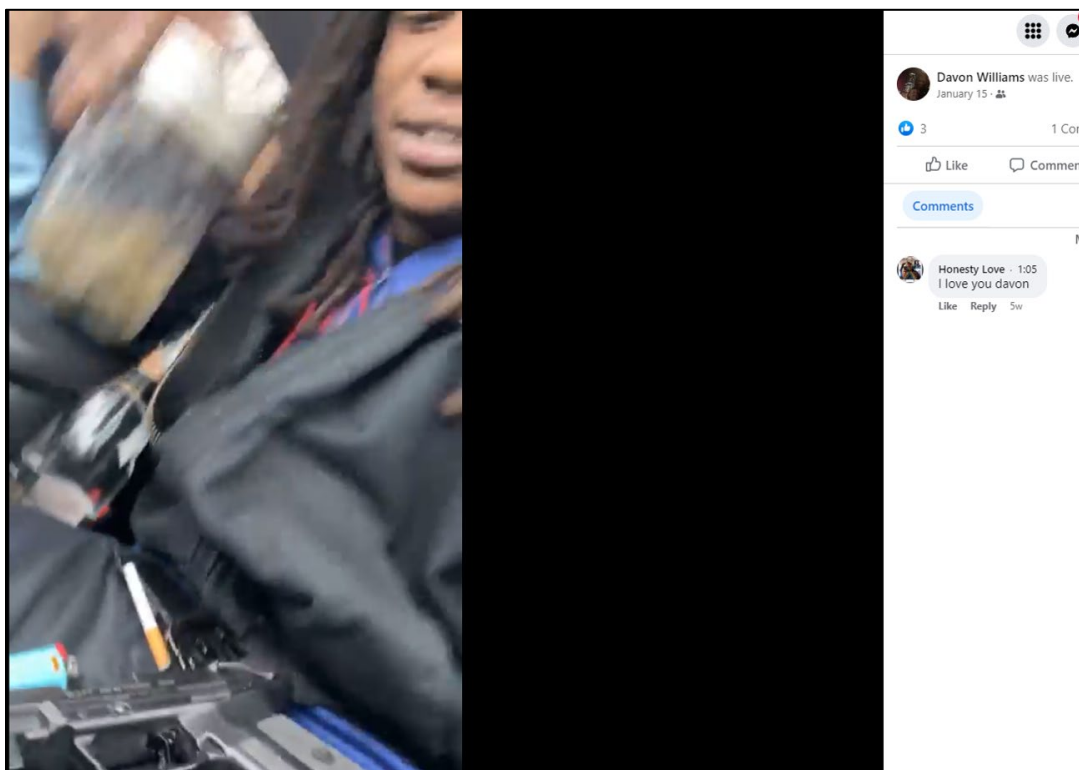
17. The following image was captured from a Facebook Live video posted to the **Target Account** on February 16, 2022. The image captures an apparent Glock handgun with what appear to be green rear sights, similar to the firearm recovered from Williams' black Kia K5.



18. The following image was captured from a Facebook Live video posted to the **Target Account** on February 15, 2022. In this image, Williams is seen displaying a small bag containing an unknown substance. Investigators recognize the manner in which the bag is tied is consistent with drug trafficking. Additionally, the way Williams is holding the bag for the camera is also common among drug traffickers.



19. The following images were captured from a Facebook Live video posted to the **Target Account** on January 15, 2022. The first image depicts Williams holding a mason jar with a substance consistent with marijuana. The second image depicts Williams with a mason jar containing a substance consistent with marijuana and an apparent firearm on his lap.



20. On February 24, 2022, investigators sent Facebook a preservation request related to the **Target Account**.

BACKGROUND ON FACEBOOK

21. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

22. Facebook asks users to provide basic contact information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.

23. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, to all Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

24. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

25. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

26. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

27. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

28. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

29. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP address. These logs contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

30. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.

31. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

32. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes

stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

33. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

34. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

35. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

36. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

37. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings;

rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

38. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their account, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider’s support services, as well records of any actions taken by the provider or user as a result of the communications.

39. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user’s “Neoprint,” IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their

accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

40. Therefore, the computers of Facebook are likely to contain all the material just described, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and account application.

41. Based upon the foregoing information, investigators believe there is probable cause that LEWIS utilized the **Target Account** to commit the **Target Offenses**. Therefore, there is probable cause to believe the **Target Account** contains evidence of the **Target Offenses**.

FURTHER AFFIANT SAYETH NAUGHT.



JAMES H. PAYNE
Special Agent
ATF

Subscribed to and sworn to before me this 22nd day of March 2022.

By telephone at 3:01 pm



HONORABLE W. BRIAN GADDY
United States Magistrate Judge
Western District of Missouri

